DOCKET NO. CV 03 0404638 S : SUPERIOR COURT

IN RE: APPLICATION OF JOSEPH P. GANIM : JUDICIAL DISTRICT OF FAIRFIELD

: AT BRIDGEPORT

: SEPTEMBER 27, 2012

MEMORANDUM OF DECISION

I

BACKGROUND

PETITIONS FOR ATTORNEY REINSTATEMENT

Before the court is the application of Joseph P. Ganim for readmission to the bar, filed on March 14, 2011. The dispositive issue is whether the applicant is of good moral character and presently fit to act as an officer of the court and to exercise the privileges and functions of an attorney.

Petitions for reinstatement to the bar after the suspension, disbarment or resignation of an attorney are governed by General Statutes §51-93[1] and the procedures set forth in Practice Book §2-

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[1] General Statutes §51-93 provides: "The superior court for any judicial district may, upon hearing, after written application and such notice as the court may prescribe, reinstate as an attorney-at-law any person resident in such judicial district who has been suspended or displaced or who has resigned."

53.[2] Section 2-53 is entitled "Reinstatement after Suspension, Disbarment or Resignation." Specifically, §2-53(f)[3] provides that an attorney who has been suspended from the practice of law for one year or more and who applies for reinstatement must do so in accordance with §2-53. Section 2-53(a) provides as follows:

> "[n]o application for reinstatement or readmission shall be considered by the court unless the applicant, inter alia, states under oath in the application that he or she has successfully fulfilled all conditions imposed on him or her as a part of the applicant's discipline. However, if an applicant asserts that a certain condition is impossible to fulfill, he or she may apply, stating that assertion and the basis therefor. It is the applicant's burden to prove at the hearing on reinstatement or readmission the impossibility of the certain condition. Any application for reinstatement or readmission to the bar shall contain a statement by the applicant indicating whether such applicant has previously applied for reinstatement or readmission and if so, when. The application shall be referred, by the court to which it is brought, to the standing committee on recommendations for admission to the bar that has jurisdiction over the judicial district court location in which the applicant was suspended or disbarred or resigned, and notice of the pendency of such application shall be given to the state's attorney of that judicial district, the chair of the grievance panel whose jurisdiction includes that judicial district court location, the statewide grievance committee, the attorney or attorneys appointed by the court pursuant to Section 2-64, and to all complainants whose complaints against the attorney resulted in the discipline for which the attorney was disbarred or suspended or resigned, and it shall also be published in the Connecticut Law Journal." Practice Book §2-53(a)..

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2 Practice Book §2-53 was recently amended in 2011. Therefore, as of 2011, many of the subsections of the Practice Book section were renumbered.

3 Practice Book §2-53(f) provides: "An attorney who has been suspended from the practice of law in this state for a period of one year or more shall be required to apply for reinstatement in accordance with this section, unless the court that imposed the discipline specifically provided in its order that such application is not required. An attorney who has been suspended for less than one year need not file an application for reinstatement, unless otherwise ordered by the court at the time the discipline was imposed."

Thereafter, "[t]he standing committee on recommendations shall investigate the application, hold hearings pertaining thereto and render a report with its recommendations to the court. It shall take all testimony at its hearings under oath and shall include in its report subordinate findings of facts and conclusions as well as its recommendation." Practice Book §2-53(b). "The court shall thereupon inform the chief justice of the supreme court of the pending application and report, and the chief justice shall designate two other judges of the superior court to sit with the judge presiding at the session. Such three judges, or a majority of them, shall determine whether the application should be granted." Practice Book §2-53(c). "If the petition for readmission or reinstatement is denied, the reason thereof shall be stated on the record or put in writing." Practice Book §2-53(e).

Although our Supreme Court has previously affirmed a trial court's order of permanent disbarment; see *Statewide Grievance Committee v. Friedland*, 222 Conn. 131, 132, 609 A.2d 645 (1992); there is no per se rule that an attorney cannot be reinstated to the bar after a felony conviction. See, e.g., *In re Application of Dimenstein*, 36 Conn. Sup. 41, 44, 410 A.2d 491 (1979) ("[e]ven in those jurisdictions which, unlike Connecticut, provide by law for permanent disbarment for some crimes, extreme caution is exercised before concluding that 'permanent' means forever.").

STANDARD OF REVIEW FOR TRIAL COURT

"The standard that the trial court is to apply when reviewing the committee's recommendation is well settled. The standard of review in cases involving admission or readmission to the bar has been clear since it was announced by [the Supreme Court] in 1906 in *O'Brien's Petition*, [79 Conn. 46, 55-56, 63 A.777 (1906), overruled in part on other grounds by *In re*

Application of Dinan, 157 Conn. 67, 72, 244 A.2d 608 (1968)]. . . . In *O'Brien's Petition* . . . our Supreme Court held that the [Superior Court] had rightly declined to hear evidence as to questions the decision of which was entrusted to the State bar examining committee and that it was proper for [the court] to inquire whether the approval of the bar was withheld after a fair investigation of the facts. We have since adhered to that rule generally, stating that the issue before the court is whether the committee or the bar . . . *acted arbitrarily or unreasonably or in abuse of its discretion or without a fair investigation of the facts.*" (Citations omitted; emphasis in original; internal quotation marks omitted.) *Statewide Grievance Committee v. Rapoport*, 119 Conn. App. 269, 273, 987 A.2d 1075, cert. denied, 297 Conn. 907, 995 A.2d 639 (2010). "Our Supreme Court very clearly has stated the standard to be employed in cases involving readmission to the bar. It is well established that the trial court must determine whether the standing committee, in recommending a denial of an application, acting arbitrarily or unreasonably or in abuse of its discretion or without a fair investigation of the facts." (Internal quotation marks omitted.) Id., 274.

"The committee should ordinarily find only the ultimate facts. If the committee has reason to believe that its conclusions from subordinate facts will be questioned, it may also state the subordinate facts. The ultimate facts are reviewable by the court to determine whether they are reasonable and proper in view of the subordinate facts found and the applicable principles of law." *In re Application of Koenig*, 152 Conn. 125, 132-33, 204 A.2d 33 (1964). As Learned Hand explained, findings should not summarize the testimony: "Findings should not be discursive; they should not state the evidence or any of the reasoning upon the evidence; they should be categorical and confined to those propositions of fact which fit upon the relevant propositions of law." *Petterson Lighterage & Towing Corp. v. New York Central R. Co.*, 126 F.2d 992, 996 (2d Cir. 1942).

"When the committee files its report, the court will determine whether the committee acted fairly and reasonably or from prejudice and ill will in its consideration of the application." *In re Application of Koenig*, supra, 152 Conn. 133. Nevertheless, it is important to note that "[f]ixing the qualifications for, as well as admitting persons to, the practice of law in this state has ever been an exercise of judicial power. . . . Although these committees have a broad power of discretion, they act under the court's supervision. . . . It is the court, and not the bar, or a committee, which takes the final and decisive action." (Citations omitted; internal quotation marks omitted.) *Scott v. State Bar Examining Committee*, 220 Conn. 812, 817, 601 A.2d 1021 (1992).

While the court takes the final and decisive actions on readmissions to the bar, our law is clear that the standing committee, and not the court, has the responsibility of determining the credibility of witnesses and evidence, and that the court may not reweigh the evidence. "[The] reweighing of the evidence by the trial court [is] improper because the Superior Court's role in reviewing a petition for admission is not that of fact finder. We have repeatedly stated that the trier of the facts determines with finality the credibility of witnesses and the weight to be accorded their testimony. . . Therefore, it [is] the function of the [standing committee] to determine whose testimony to credit and how much weight to assign to it. . . The Superior Court rules specifically delegate to the [standing committee] the duty, power and authority to . . . determine whether such candidates are qualified as to prelaw education, legal education, morals and fitness . . . ." (Citations omitted; internal quotation marks omitted). *Doe v. Connecticut Bar Examining Committee*, 263 Conn. 39, 58, 818 A.2d 141 (2003). In short, it is the standing committee who is tasked with fact-finding, and not this court. This court is confined to a review of the record in determining whether the committee, after a fair investigation of the facts, acted arbitrarily, unreasonably, or in an abuse

of discretion in recommending readmission. Thus, this court is tasked with reviewing the standing committee's decision on its record, employing a clearly erroneous standard. "Under the clearly erroneous standard, a reviewing court retains authority to reverse a determination that finds some support in the record if it has a definite and firm conviction that a mistake has been made. No comparable exception exists under the substantial evidence standard. Yet, it is that exception - that rare circumstance where, despite the evidence in the record, a reviewing court nevertheless is left with a definite and firm conviction that a mistake has been made - which preserves and vindicates the court's inherent authority to discipline its officers. For that reason, the clearly erroneous standard, itself very deferential, is the preferable standard of review in attorney grievance appeals". *Brunswick v. Statewide Grievance Committee*, 103 Conn. App. 601, 613 (2007).

GUIDING PRINCIPLES FOR ATTORNEY DISCIPLINE AND REINSTATEMENT

Our Supreme Court has laid out the principles which must guide this court. When deciding whether to readmit an applicant, the court must keep in mind that "[a]ttorney disciplinary proceedings are for the purpose of preserving the courts of justice from the official ministration of persons unfit to practice in them . . . . An attorney as an officer of the court in the administration of justice, is continually accountable to it for the manner in which he exercises the privilege which has been accorded him. His admission is upon the implied condition that his continued enjoyment of the right conferred is dependent upon his remaining a fit and safe person to exercise it, so that when he, by misconduct in any capacity, discloses that he has become or is an unfit or unsafe person to be entrusted with the responsibilities and obligations of an attorney, his right to continue in the enjoyment of his professional privilege may and ought to be declared forfeited . . . . Therefore, if

a court disciplines an attorney, it does so not to mete out punishment to an offender, but [so] that the administration of justice may be safeguarded and the courts and the public protected from the misconduct or unfitness of those who are licensed to perform the important functions of the legal profession." (Citations omitted; internal quotation marks omitted). *Statewide Grievance Committee v. Spirer*, 247 Conn. 762, 771-72, 725 A.2d 948 (1999). The disciplinary process is neither a civil action whose objective is to provide restitution to a victim, nor a criminal action intended to punish the offender; its objective is to protect the court. *In Re Application of Pagano*, 207 Conn. 336, 339, 541 A.2d 104 (1988).

Additionally, "Connecticut courts reviewing attorney misconduct have looked to the American Bar Association's Standards for Imposing Lawyer Sanctions (Standards), which do provide guidance. The Standards, which were officially promulgated in 1986, have not been officially adopted in Connecticut. They are, however, used frequently by the Superior Court in evaluating attorney misconduct and in determining discipline . . ." *Statewide Grievance Committee v. Glass*, 46 Conn. App. 472, 481, 699 A.2d 1058 (1997). The standards provide, in pertinent part, as follows: "Procedures should be established to allow suspended lawyers to apply for reinstatement, but the lawyer who has been suspended should not be permitted to return to practice until he has completed a reinstatement process demonstrating rehabilitation, compliance with all applicable discipline or disability orders and rules, and fitness to practice law."[4] ABA Standards, Section 4.1.

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For informative discussion on the American Bar Association's Standards for Imposing Lawyer Sanctions, see *Statewide Grievance Committee v. Shluger*, 230 Conn. 668, 673 n. 10, 646 A.2d 781 (1994) ("In imposing a sanction after a finding of lawyer misconduct, a court should consider the following factors: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors . . . .Aggravating factors include: (a) prior disciplinary offenses; (b) dishonest or selfish motive; (c) a pattern of misconduct; (d) multiple offenses; (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (f) submission of false evidence, false statements, or

We therefore are guided by the principles delineated by the Connecticut Supreme Court and the criteria set forth in the standards, all of which consider "the interests of the attorney applicant, the interests of the bar and the interest of the public in promoting public confidence in the bar and the legal system." *Statewide Grievance Committee v. Toro;* Superior Court, judicial district of New Haven at New Haven, CV 03-0478961 (November 14, 2008) (*Lager, J., Silbert, J., Cosgrove, J.*).

GOOD MORAL CHARACTER AND FITNESS TO PRACTICE LAW

"In this state, the ultimate burden of proving good character rests upon the applicant." *In re Application of Koenig*, supra, 152 Conn. 132. "Good moral character is a necessary and proper qualification for admission to the bar . . . . Proof of this is a requirement . . . and the ultimate burden of proving it may properly be placed, as it is in Connecticut, on the applicant." (Citations omitted.) *In re Application of Warren*, 149 Conn. 266, 274 178 A.2d 528 (1962). The burden of proof of good moral character and fitness rests on the shoulders of the applicant even when, as noted by the standing committee in the present case, there is "no evidence or testimony objecting to Mr. Ganim's application." Report of Standing Committee on Recommendations for Fairfield County, July 24,

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other deceptive practices during the disciplinary process . . . . Mitigating factors include: (a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; (c) personal or emotional problems; (d) timely good faith effort to make restitution or to rectify consequences of misconduct; (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings; (f) inexperience in the practice of law; (g) character or reputation . . . (j) interim rehabilitation in disciplinary proceedings; (k) imposition of other penalties or sanctions; (l) remorse; [and] (m) remoteness of prior offenses.").

Additionally, it should be noted that "[t]he professional rights and obligations of attorneys practicing within Connecticut are governed by the Rules of Professional Conduct, adopted by the judges of the Superior Court in 1986." Id., 674 n. 11. "[T]he comment to rule 8.4 [of the Rules of Professional Conduct], which serves as a guide for compliance with that rule provides in relevant part: 'Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return . . .. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.'" Id.

2012, p. 8, paragraph 28.[5]

"[G]ood moral character is a necessary and proper qualification for admission to the bar . . . In this state, the ultimate burden of proving good character rests upon the applicant . . . . While there is no litmus test by which to determine whether an applicant for admission to the bar possesses good moral character . . . no moral character qualification for bar membership is more important than truthfulness and candor . . . . ***It is not enough for an attorney that he be honest. He must be that, and more. He must be believed to be honest.***" (emphasis added). *Doe v. Connecticut Bar Examining Committee*, supra, 263 Conn. 52-53.

As indicated in its commentary, Practice Book §2-5A makes clear what good moral character entails. That section provides as follows:

> (a) Good moral character shall be construed to include, but not be limited to, the following:
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> (1) The qualities of honesty, fairness, candor and trustworthiness;
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> (2) Observance of fiduciary responsibility;
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> (3) Respect for and obedience to the law; and
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> (4) Respect for the legal rights of others and the judicial process, as evidenced by conduct other than merely initiating or.

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[5] As recognized by the court in *In Re Application of Avcollie*, 43 Conn. Sup. 13, 19-20, 637 A.2d 409 (1993), attorneys rarely, if ever, object to an applicant's application for readmission to the bar. "It is unrealistic to expect that individual practitioners will mount the energy, expense and time to present a formidable case against reinstatement." Id., 19.

Additionally, it can hardly be a surprise that no members of the public appeared to object to Ganim's application. As Ganim's suspension arose from his conviction rather than from complaints filed against him, there is no statutory or practice book requirement of notice to those harmed by Ganim's misconduct. The record indicates that the standing committee exceeded the notice requirement of Practice Book §2-53(a) by providing not only notice of the pendency of the application, but also the date of the first hearing, and by notifying Alex Conroy. (Although not evident from the record, it appears from the comments of Ganim's counsel at the September 11, 2012 hearing before this court that Mr. Conroy is a victim of Mr. Ganim's malfeasance.) As required, the standing committee also properly published notice of the pendency of the application in the Connecticut Law Journal, a legal publication which reaches the legal community as opposed to members of the general public. See committee report, p. 2, paragraph 4. Nonetheless, the members of the general public, the taxpayers of the city of Bridgeport, the losing bidders referenced in the court proceedings - - whoever one might identify as those harmed by Ganim's behavior - - would have no real way of knowing that they had a right to object to his readmission at one of the several hearings that were held.

pursuing litigation.

(b) Fitness to practice law shall be construed to include the following:

(1) The cognitive capacity to undertake fundamental lawyering skills such as problem solving, legal analysis and reasoning, legal research, factual investigation, organization and management of legal work, making appropriate reasoned legal judgments, and recognizing and solving ethical dilemmas;

(2) The ability to communicate legal judgments and legal information to clients, other attorneys, judicial and regulatory authorities, with or without the use of aids or devices; and

(3) The capability to perform legal tasks in a timely manner. (Adopted June 21, 2010, effective Jan. 1, 2011; amended June 20, 2011, effective Sept. 1, 2011.)

Furthermore, the Connecticut Bar Examining Committee's Regulations Governing Admission to the bar provides as follows: "The determination of present good moral character is made at the time of admission. In considering good moral character the Committee will attempt to view the applicant as a whole person and take into account the applicant's entire life history rather than limit its view to isolated events in his/her life. The Committee's inquiry into an applicant's character and fitness emphasizes honesty, fairness and respect for the rights of others and for the law in general . . ." Bar Examining Committee Regulations, article VI.

Our courts have also provided guidance on the issue of good moral character. "An applicant for readmission to the bar must be possessed of such standards of honor and honesty and have such an appreciation of the distinctions between right and wrong in the conduct of men toward each other as will make him a fit and safe person to engage in the practice of law . . . . Good moral character is a necessary and proper qualification for admission to the bar. . .. Character is not measured in the crucible of a single instance and the assessment for reentry appropriately centers on the question of present fitness. . . An attorney at law admitted to practice, and in the exercise of the right thus

conferred to act as an officer of the court in the administration of justice, is continually accountable to it for the manner in which he exercises the privilege which has been accorded him. His admission is upon the implied condition that his continued enjoyment of the right conferred is dependent upon his remaining a fit and safe person to exercise it, so that when he, by misconduct in any capacity, discloses that he has become or is an unfit or unsafe person to be entrusted with the responsibilities and obligations of an attorney, his right to continue in the enjoyment of his professional privilege may and ought to be declared forfeited. As important as it is that an attorney be competent to deal with the oftentimes intricate matters which may be entrusted to him, it is infinitely more so that he be upright and trustworthy." (Citations omitted; Internal quotation marks omitted.) *Statewide Grievance Committee v. Rapoport*, supra, 119 Conn. App. 277-278. "The question for determination of an application like this one is . . . the present fitness of the applicant for reinstatement to again exercise the privileges and functions of an attorney as an officer of the court and confidential manager of the affairs and business of others entrusted to his care and keeping, in view of his previous misconduct, his discipline therefor, and any reformation of character wrought thereby or otherwise as shown by his more recent life and conduct." *In re Kone*, 90 Conn. 440, 442, 97 A. 307 (1916).

II

THE PRESENT APPLICATION

CRIMINAL MISCONDUCT GIVING RISE TO GANIM'S 2003 CONVICTION AND SUSPENSION FROM THE PRACTICE OF LAW

As evidenced by the record, Ganim was admitted to the bar of the state of Connecticut in 1983, and elected mayor of the city of Bridgeport in May of 1991. The criminal misconduct which

gave rise to his conviction, the federal court proceedings including the indictment, trial, Ganim's defense, verdict and sentencing, are discussed by the United States Court of Appeals for the Second Circuit in *United States v. Ganim*, 510 F.3d 134, 137-141 (2nd Cir. 2007), cert. denied, 552 U.S. 1313, 128 S. Ct. 1911, 170 L. Ed. 2d 749 (2008), as follows:[6]

> Ganim served as the mayor of Bridgeport, Connecticut (the "City") from 1991 through the time of his conviction in 2003. As mayor, Ganim was responsible for the overall operation of municipal government and, among other responsibilities, had final authority over the City's contracts. During his first campaign for mayor, Ganim became acquainted with Leonard J. Grimaldi ("Grimaldi"), who acted as a media advisor, and Paul J. Pinto ("Pinto"), who began as his driver and aide. Ganim developed close relationships with Grimaldi and Pinto over the years that followed. Grimaldi subsequently formed a public relations company called Harbor Communications, of which he was the sole proprietor and employee. Pinto became associated with (and later purchased an ownership interest in) the Kasper Group, a Bridgeport architecture and engineering firm.
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> **A. PSG Contract Bid**
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> In 1995 and 1996, Bridgeport was considering privatizing its wastewater treatment facilities. Ganim suggested that Grimaldi contact Professional Services Group ("PSG") to act as PSG's public relations consultant in connection with its bid for the water treatment contract. Grimaldi then contacted PSG, which retained him as a consultant for a fee of $30,000. PSG submitted a proposal for the contract, as did U.S. Water, a competing firm which was represented by Pinto and by United Properties. The owners of United Properties, Albert Lenoci, Sr. and Albert Lenoci, Jr. (the "Lenocis"), were Ganim's political benefactors.
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> After the bids were submitted, Ganim told Pinto that he had decided to award the contract to PSG, but that Pinto should arrange

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6 The standing committee, at the October 24, 2011 hearing, took judicial notice of this decision, and accordingly, the decision was part of the record before the committee. The committee also took judicial notice of *Bridgeport Harbour Place v. Ganim*, 111 Conn. App. 197.(2011), regarding the Steel Point project. Although it is of no importance to this decision, the citation referred to at the October 24, 2011 hearing involved the trial court's ruling on a motion to strike; disciplinary counsel referred to the appeal from the trial of that case, 131 Conn. App. 99, in her September 14, 2012 brief to this court.

a financial deal between PSG and United Properties because Ganim did not want to choose between big supporters.

Ganim told Pinto that "[i]f they want the deal, they'll do it." In turn, Pinto explained to Grimaldi that if PSG wanted to win the contract, it would have to "take care of the Lenocis." Grimaldi acquiesced, as did PSG upon his advice. PSG agreed to pay Grimaldi $70,000 more per year for the contract's duration, which he was to pass on to Pinto and the Lenocis. Pinto informed Ganim of the deal, and Ganim approved the selection of PSG to operate the wastewater treatment facilities.

Between May 1997 and April 1999, PSG paid Grimaldi roughly $311,396 in consulting fees, much but not all of which Grimaldi paid to Pinto. Grimaldi and Pinto used some portion of this money to provide Ganim benefits such as entertainment, meals and clothing.

B. Fifty-Fifty Fee Sharing Agreement

In December 1996, Ganim traveled with Pinto and Grimaldi to Tucson, Arizona. During the trip, Ganim told them they should "join forces" by agreeing to split any consulting, fees they earned through future dealings with the City, and that Ganim would steer contracts to the pair, in return for which they would "tak[e] care of" his expenses and needs. Upon returning to Bridgeport, the three men met to confirm the agreement. Grimaldi testified that during that meeting, he and Pinto agreed that:

> a portion of that money [from the agreement] would be to take care of [Ganim]. If he needed cash, we would take care of him. If he needed suits, we'd take care of him. If he needed shirts, we'd take care of him. Any needs that he required, off of that 50/50 arrangement, we would take care of [Ganim]. In exchange for that, [Ganim] would make sure that all of our clients would get work from the city if they wanted it, that he would steer city contracts and jobs to our clients. . .

Pursuant to the fee sharing agreement, Ganim steered certain projects (some of which are discussed below) to Pinto's and Grimaldi's clients from February 1997 to April 1999. Meanwhile, Grimaldi and Pinto provided Ganim with cash, meals, fitness equipment, designer clothing, wine, jewelry and other items. Also at around that time, Grimaldi employed Ganim's wife. At Ganim's

insistence, Grimaldi overpaid her, gave her payments in cash and did not report her income to the Internal Revenue Service.

C. Bridgeport Energy-Funded Programs

In 1998, Ganim had Grimaldi arrange for Bridgeport Energy — one of Grimaldi's clients — to contribute one million dollars to fund a promotional advertising campaign and the City's "Clean & Green" program, which demolished and rehabilitated blighted properties. Ganim then arranged for Grimaldi to oversee the advertising campaign and for one of the Lenocis' firms, represented by Pinto, to administer the Clean & Green monies. Pursuant to the fee-sharing agreement, Grimaldi and Pinto used a portion of their consulting fees for these programs to benefit Ganim.

D. PSG Contract Extension & One-Third-Each Fee Sharing

In late 1998, PSG sought a long-term extension of its contract to operate the City's wastewater treatment facilities. In a meeting with Grimaldi and Pinto, Ganim told Grimaldi that he would support the contract extension. In exchange, Grimaldi was to renegotiate his contract with PSG to get more of his consulting fees up front. Ganim also directed that the three men would split those fees — as well as fees from all future deals with the City — one-third each. Grimaldi was to pay Ganim's share to Pinto, who would hold the fees for Ganim. Following these discussions, Grimaldi successfully renegotiated his consulting fees with PSG, such that he was paid $495,000 in a front-loaded deal. On May 27, 1999, Ganim awarded PSG the contract extension. Over several weeks Grimaldi paid Pinto roughly two-thirds of the consulting fee, one third of which was for Ganim. Pinto kept Ganim's share mixed with his own money to avoid detection.

Throughout most of 1999, Grimaldi and Pinto provided Ganim — upon his request — with money and benefits such as wine, cabinets, home improvements and meals. Pinto stated at trial that "I was holding [Ganim's] money. When he needed the money, I'd give it to him or use it the way he directed me to. . . ."

In September 1999, Ganim and Grimaldi had a "falling out," and eventually Grimaldi stopped paying Ganim's portion of the money to Pinto. From that point forward, Ganim shunned Grimaldi and prevented his clients from obtaining contracts with the City.

E. Life Insurance Policy

In early 1999, Ganim sought to use City funds to purchase a one-million-dollar life insurance policy for himself, as well as for

certain City department heads as "cover." He approached Frank Sullivan ("Sullivan"), a childhood friend who had become a stockbroker, about brokering the deal. Ganim approved the purchase of the policies in April 1999 without the City Council's approval. After the purchase of the policies was leaked to the media, Ganim wrote to The Hartford Life Insurance Company to request that his own policy be terminated, but did not fill out the appropriate paperwork so that the policy would remain in effect. At the end of the fiscal year, Ganim had the funding for the policies inserted as one of many summary budget transfers, which were approved by the City Council.

Sullivan received a $17,500 commission for serving as the broker for Ganim's policy. Acting on behalf of Ganim, Pinto advised Sullivan that if Sullivan wanted to do more business with the City, he would have to pay a kickback. Sullivan subsequently paid $5,000 in cash for Ganim and Pinto to share.

F. Pension Plans

In the fall of 1999, Sullivan sought to become the broker of record for two municipal pension plans, "Plan A" and "Plan B." Ganim had Pinto tell Sullivan that if he wanted the position, Sullivan would have to give fifty percent of his commissions to Ganim and Pinto. With Ganim's support, Sullivan was appointed as the broker for the Plan B pension in September 1999. The following year, and again with Ganim's support, the Director of Finance for the City of Bridgeport retained Sullivan's investment firm to assist the city in under-writing the Plan A pension. Sullivan received $38,000 as the first installment of his brokerage commission, which he intended to split with Pinto and Ganim. They did not request their respective cuts, however, as they had become anxious about the pending federal investigation against them.

G. Juvenile Detention Facility

In early 1999, the City, pursuant to a State of Connecticut project, was attempting to condemn property owned by B.C. Sand & Gravel in order to build a juvenile detention facility. B.C. Sand & Gravel retained Pinto, agreeing to pay him $100,000 if he successfully stopped the condemnation. Pinto informed Ganim of the agreement, who then exercised his influence to change the City's position on the condemnation. The State ultimately abandoned the project, and, as a result, Pinto received his fee from B.C. Sand &

Gravel. Pinto held half of that fee for Ganim's benefit pursuant to their usual fee sharing arrangement, and from that sum provided Ganim with cash and benefits upon his request.

H. United Properties & Dollar-A-Square-Foot

The Lenocis, principals of United Properties, were seeking in 1998 and 1999 to develop tracts of land in the City, including a site called Father Panik and another called Steel Point. The Lenocis and Pinto worked out a deal whereby United Properties would pay Pinto one dollar for each square foot of space they constructed in the City in the future. Pinto was to use some of that money to "take care of" Ganim, who in turn lobbied to get the Lenocis a long-term lease to develop Father Panik. In 2000, the City sought bids to develop Steel Point. In a November 2000 meeting with Pinto and Ganim, the Lenocis promised to raise $500,000 for Ganim's anticipated gubernatorial campaign in exchange for his commitment to get them the Steel Point project. But the Lenocis did not bid on the project when federal search warrants were executed at United Properties. Because neither the Father Panik nor the Steel Point projects materialized, Ganim and Pinto received no money in connection with these projects.

I. False Income Tax Returns

On his 1998 and 1999 income tax returns, Ganim failed to report as income $47,996 and $265,733, respectively, in cash and benefits provided by Pinto and Grimaldi, including the sums Grimaldi paid to Ganim's wife.

J. Ganim's Defense

Ganim testified in his own defense at trial. He acknowledged that Pinto and Grimaldi provided him with cash, meals, clothing, wine and other gifts, but claimed they did so out of friendship or legitimate lobbying activity. He denied receiving any gifts in exchange for official acts, denied entering any fee-sharing agreement with Pinto and Grimaldi, denied being "partners" with them or being aware of the deals between Pinto and Grimaldi, and claimed that he acted only in the best interest of the City.

Ganim confirmed that his wife had worked for Grimaldi, but claimed that their failure to report her wages was inadvertent. He also admitted acquiring a life insurance policy paid for by City funds but denied having purchased it secretly or without proper City Council authorization.

II. Judicial Proceedings

A. Indictment

Between 1997 and 2001, the Federal Bureau of Investigation and the Internal Revenue Service conducted an investigation of municipal corruption in the City. On October 31, 2001, a grand jury in the United States District Court for the District of Connecticut returned a twenty-four count indictment against Ganim, and on March 27, 2002, the grand jury returned a superseding indictment containing the same charges.

Count 1 alleged that Ganim, along with Pinto and Grimaldi, conducted a racketeering enterprise in violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c) ("RICO"), and listed eleven predicate racketeering acts. Count 2 alleged conspiracy to conduct a racketeering enterprise. Counts 3-21, which overlapped with many of the predicate RICO acts, were separately charged as the following crimes: (1) extortion in violation of the Hobbs Act, 18 U.S.C. §§ 1951 & 1952; (2) mail fraud in violation of 18 U.S.C. §§ 1341 & 1346; (3) bribery involving programs receiving federal funds ("federal programs bribery") in violation of 18 U.S.C. § 666; and (4) conspiracy under 18 U.S.C. § 371 to commit bribery under 18 U.S.C. § 666. Counts 22 and 23 alleged the filing of false tax returns in violation of 28 U.S.C. § 7206(1). Count 24 was a forfeiture count under 18 U.S.C. § 1963.

The district court granted Ganim's motion for a bill of particulars, ordering the government to provide "a limited bill" "setting out the specific benefits Ganim is alleged to have received." *United States v. Ganim*, 225 F.Supp.2d 145, 148, 155 (D.Conn. 2002). After receiving the bill of particulars, Ganim moved for a supplemental bill on the grounds that the first was incomplete. The district court granted the motion, and the government subsequently filed a supplemental bill.

B. The Trial and Verdict

Ganim's trial commenced on January 8, 2003, and lasted ten weeks. Before the case was submitted to the jury, Counts 18 and 21 of the indictment were dismissed for reasons not relevant here. After deliberating for eight days, the jury returned a verdict convicting Ganim on 16 of the remaining 22 counts.

C. Sentencing

> On July 1, 2003, the district court sentenced Ganim principally to nine years' imprisonment, the top of the 87-108 months Sentencing Guidelines range, followed by a three-year term of supervised release. The court also imposed a fine upon Ganim in the sum of $150,000, ordered him to pay restitution to Bridgeport Energy and to the City in the total amount of $148,617, and ordered Ganim to forfeit $175,000 in proceeds derived from the racketeering enterprise. *United States v. Ganim*, supra, 510 F.3d 137-41.[7]

Ganim served approximately seven years, and began supervised release in July 2010. Committee Report, p. 2, paragraph 2. He currently remains on supervised release, his petition for early release having been denied. Committee Record, April 12, 2012 Stipulation.

THE 2003 PRESENTMENT AND INTERIM SUSPENSION, THE 2010 DISCIPLINARY DISPOSITION, AND THE 2011 APPLICATION FOR READMISSION

In 2003, a presentment was brought against the applicant by the statewide grievance committee, and Ganim was placed on interim suspension by the court, *Dewey, J.*, on August 8, 2003. As the presentment proceedings involved a felony conviction, "[t]he sole issue to be determined . . . [was] the extent of final discipline to be imposed. . ." Practice Book § 2-41 (e). On March 4, 2010[8] the court, *Arnold, J.*, entered a disciplinary order based upon a stipulated agreement between

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The extensive corruption outlined in pages eleven to seventeen above, as taken from the opinion of the Second Circuit Court of Appeals, is not found in the committee report which summarizes the misconduct as follows: "The Applicant had been previously convicted of 16 counts of racketeering, conspiracy, extortion, mail fraud, bribery and filing false income tax returns. He was sentenced on July 1, 2003 and released from prison on July 19, 2010. He was also sentenced to 36 months of supervised release and is participating in that program presently." Committee Report, p.2, paragraph 2.

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Practice Book §2-41(e) provides in relevant part that "the presentment proceedings instituted will not be brought to hearing until all appeals from the conviction are concluded unless the attorney requests that the matter not be deferred."

Ganim's counsel and the statewide bar counsel for the grievance committee, without the need for an evidentiary hearing. Committee Record, Exhibit 1. The March 4, 2010 order gave Ganim the right to file an application for reinstatement with the court as of March 4, 2011[9] provided that Ganim met the monetary obligations imposed in conjunction with his criminal case, complied with the conditions of his ongoing supervised release, performed 100 hours of community service, and attended twelve hours of continuing legal education.

On March 14, 2011 Ganim filed an application for readmission to the bar[10]. Pursuant to Practice Book § 2-53(a), the application for readmission was referred by the court to the standing committee on recommendations for admission to the bar for Fairfield county. The standing committee then properly discharged its obligations by, inter alia; taking testimony under oath on the record, admitting evidence as to general character, reputation and professional standing, and rendering a report with its recommendations to the court. C.G.S. § 51-94; Practice Book §2-53(b). The committee report, dated July 24, 2012, unanimously recommended Ganim's readmission to the bar. The court, *Bellis, J.*, thereafter informed the chief justice of the Connecticut Supreme Court of the pending application and report, and the chief justice, pursuant to Practice Book §2-53(c), made the panel designations.

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Attorneys who are disbarred pursuant to Practice Book §2-47A for misappropriating client's funds or other property held in trust may not apply for reinstatement for twelve years; that limitation did not apply to the present case. Additionally, had Ganim been convicted in state court rather than federal court, the state court, after sentencing, would have been required to hold an evidentiary hearing on the issue of whether he was eligible to continue to practice law. C.G.S. §51-91a. If suspended, by statute there was a minimum of seven years suspension for a class A felony and a minimum five year suspension for a class B felony. C.G.S. §51-91(c). This statute does not apply to attorneys convicted of felonies in federal court or courts of other states but applies only to felony convictions in Connecticut state courts. *Statewide Grievance Committee v. Spirer*, supra, 247 Conn. 776.

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"The superior court for any judicial district may, upon hearing, after written application and such notice as the court may prescribe, reinstate as an attorney-at-law any person resident in such judicial district who has been suspended or displaced or who has resigned." C.G.S. §51-93; see also Practice Book §2-53.

THE JULY 24, 2012 COMMITTEE REPORT

JUDGE ARNOLD'S ORDER; JUDGE ARNOLD'S AND JUDGE ARTERTON'S "POSITIONS" ON GANIM'S READMISSION

The July 24, 2012 committee report, in recommending readmission, states that Ganim " has met and exceeded the requirements set forth by Judge Arnold for readmission." Committee Report, p. 9, paragraph 30. Additionally, it "finds that the applicant has met each of the requirements set forth by Judge Arnold . . ." Id., p. 10, paragraph 33.[11]

In his March 24, 2010 disciplinary order, Judge Arnold delineated the steps that Ganim would have to take in order to be eligible to file this application for reinstatement - - an application that could be made no earlier than March 4, 2011, according to the stipulated order. As substantiated by the record, on March 4, 2010, the court entered into a stipulated disposition and order setting forth certain prerequisites, as discussed above, which, if met, made Ganim eligible to *apply* for readmission as of March 4, 2011. While the committee report does accurately relate the substance of the stipulated agreement between Ganim and the grievance counsel which was accepted by the court and while Ganim, having completed the agreed upon conditions, was *eligible* to make this application, the committee clearly erred in finding that Ganim met or exceeded any requirements set forth by the court for readmission.[12] The fact that Ganim was eligible to apply for readmission has

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11 In his May 23, 2011 brief to the standing committee, Ganim's counsel states that Ganim "exceeded all of the conditions required by Judge Arnold for readmission." Committee Record, Exhibit 6, p. 8.

12 Indeed, the report of the standing committee tellingly quotes a question asked by the committee to the disciplinary counsel. "And other than the adequacy of the apology, is there anything else that you perceive that is deficient in terms of his (Ganim) *meeting the criteria set by the court for readmission*?" Committee Report, p. 9, paragraph 29.

little or no bearing on whether he possesses the necessary indicia of honesty, truthfulness, and fiduciary responsibility to support a finding he is presently fit to practice law. See *Statewide Grievance Committee v. Rapoport,* supra, 119 Conn. App. 277 (original order of suspension, indicating that the applicant was eligible to apply for readmission after five years, "did not explicitly or implicitly limit the discretion of the committee. . .")

Ganim's counsel, at his final argument to the standing committee on March 5, 2012, quoted extensively from comments the court made on March 4, 2010 when entering the stipulated disciplinary order. Indeed, Ganim's counsel stated that, "Judge Arnold suggest [ed] to this committee that if Joe otherwise meets the conditions and satisfies you that he thinks rehabilitation and redemption and readmission are in order . . . ." Committee Record, Exhibit 7, March 5, 2012, p. 25. Counsel also argued that Judge Arterton supported the application for readmission, based on the testimony under oath of Ganim's probation officer, Christopher Rogers. Ganim's counsel stated as follows: "So now we have two neutral judges - a state court judge who took his license away, a federal judge who heard the criminal trial - Judge Arnold suggesting to this committee that if Joe otherwise meets the conditions and satisfies you that he thinks rehabilitation and redemption and readmission are in order, and you've got a federal judge saying unequivocally she would like to see him back to the practice of law." Id.

At the committee hearing on March 5, 2012, Rogers repeatedly testified that Judge Arterton wanted Ganim reinstated. Id., pp. 10-11, 13. On March 6, 2012, Judge Arterton issued an order denying Ganim's petition for early termination of supervised release - - a petition Ganim had filed over six months before - -noting that "[t]he Court has taken no position on this application for bar

readmission." Committee Record, April 12, 2012 Stipulation.[13]

While the report of the standing committee makes no mention of Judge Arterton's position on Ganim's application, it improperly concludes that Ganim met criteria for readmission set by Judge Arnold. Judge Arnold's order, based on a stipulated agreement of the parties, merely prescribed the conditions precedent to Ganim's right to apply for readmission, but did not and could not address the far more weighty issue of whether he should be readmitted. It was improper to suggest that Judge Arnold was taking any position on this application for readmission, improper for counsel to give Judge Arnold a voice in this readmission proceeding and, and error for the committee to find that Ganim had met or exceeded Judge Arnold's requirements for readmission.

REMORSE FOR THE 1995 - 1999 CRIMINAL MISCONDUCT

"Remorse and contrition bespeak a redemptive life." *In re Application of Avcollie*, supra, 43 Conn. Sup. At 23. "The most apt definition of remorse is gnawing distress arising from a sense of guilt for *past* wrongs (as injuries done to others) . . . ." *State v. Rizzo*, 266 Conn. 171, 278, 853 A.2d 363(2003) (citation omitted; emphasis in original; internal quotation marks omitted). Connecticut case law and the ABA standards recognize the important role of remorse in attorney disciplinary matters.

The committee report does not directly address the issue of remorse and the record is virtually devoid of any evidence of remorse. The report includes an excerpt of comments *made by*

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13 Judge Arterton's order, and the stipulation by the parties that Christopher Rogers "would seek to correct . . . his testimony [regarding] Judge Arterton's position" were made part of the record before the standing committee on April 12, 2012.

disciplinary counsel in response to a committee member's question regarding "the adequacy of the apology." Committee Report, p. 9, paragraph 29. Additionally, the report states that, "Mr. Ganim testified that he accepts the verdict from his criminal case and accepts full responsibility for what occurred," referring to page 36 of Ganim's testimony before the committee. Committee Report, p. 6, paragraph 21.[14] The committee clearly erred to the extent it found that Ganim accepted responsibility for his criminal misconduct.

The entirety of Ganim's testimony before the standing committee as it relates to accepting responsibility is as follows:

Q: Do you accept the verdict against you?

A: I do.

Q: And why do you accept the verdict?

A: Well, I accept the verdict, I respect the - process. I had a fair trial. I was found guilty by a jury of my peers. It was certainly a long and contested matter but it's what happened. There's nothing I can change.

Q: Do you accept responsibility for what happened in this?

A: Yes.

Q: Tell us how you accept responsibility.

A: Well, I've tried to make my life and my actions consistent with the premise of accepting responsibility right from the beginning by trying to - if there were financial obligations paying taxes, get those paid. In dealing with any - any situations I could

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[14] It appears that the committee, by summarizing portions of Ganim's deposition testimony, found that testimony probative.

and then trying to come out and make myself a better person. And not run from the fact of - of that as well I thought by doing federal prison consulting I could also help people that were going into a similar situation and meet some of the challenges that they would be facing in trying to keep their families together." Committee Record, Exhibit 7, October 24, 2011, p. 36.

Additionally, when discussing his federal prison consulting website he stated as follows: "And I don't know if I said it clearly before is in my case I mean I had a fair trial, I had good lawyers, I had a fair judge and I live and stand by the result, I accept the verdict, I was found guilty. I accept that, I acknowledge that. I took an appeal, I lost. I took on in whatever way I thought I could and should took responsibility and went and did my time and come out and understand there's still continuing consequences." Id., p. 80.

At no point was Ganim specifically asked whether he admitted engaging in criminal misconduct. When asked if he accepted responsibility "for what happened in this," Ganim answered in the affirmative, explaining that he was doing so by paying taxes, by trying to better himself, and by doing the federal prison consulting work, which, as the record reflects, is a for profit business. Obeying the law by paying taxes simply does not translate into accepting responsibility and acknowledging five years of misconduct. While trying to better oneself is certainly a laudable goal for everyone, it does not equate to accepting responsibility and acknowledging misconduct. With respect to the federal prison consulting work, it is inconceivable that running this business suggests that Ganim admitted to and accepted responsibility for his misdeeds, particularly in light of the standing committee's finding that the federal prison consulting website did not point to present fitness, as discussed below.

When questioned by the committee as to whether his character and fitness to practice law is different now then it was at the time of his sentencing on July of 2003, Ganim referred to the passage of time since his sentencing and lessons learned, stating: "It means hopefully as we get older, as I've gotten older, as I've gone through these experiences easy or difficult and everybody has challenges in their lives that they unfortunately have to share with family or friends that I became a stronger, better and more reliable person." Committee Record, Exhibit 7, October 24, 2011 transcript, p. 82. He referred to the community work he has done since his release, conceding that most of the community work was required. In apparent reference to character and fitness, he stated, "I know the obligation isn't one that's personal to me or any lawyer but encompasses the whole Connecticut Bar and I respect that". Id., p. 83. Ganim was never asked by counsel or the committee whether he committed the wrongful acts for which he was convicted nine years ago. He was not asked for, nor did he offer, an apology or any explanation for the criminal misconduct that spanned five years.

Ganim was not asked to express his remorse, nor was he asked whether he had *ever* expressed his remorse. Ganim's probation officer, Christopher Rogers, *was* asked if Ganim had ever expressed any remorse. Rogers testified that Ganim talked about redeeming his reputation and that the underlying criminal misconduct was never discussed. Committee Record, Exhibit 7, March 5, 2012 transcript, p. 12. None of the character witnesses testified directly or indirectly as to any remorse or acknowledgment of wrongdoing on the part of Ganim.[15]

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Of the letters submitted in support of the application, one letter writer, Frank Bojka, "sensed" that Ganim felt that he had dishonored the profession upon his conviction, and another, Bradley C. Weinstein, described Ganim as humbled by his experiences and extremely contrite about his actions. Committee Record, Exhibit 10. According to the letter, Weinstein knew Ganim for approximately one year at the time he wrote the letter in 2011. Id.

As substantiated by the record before the committee, Ganim had multiple opportunities to apologize for his criminal acts, make a clear expression of remorse and acknowledge his wrongdoing. At the sentencing hearing following his criminal conviction, he briefly thanked the court, probation, his family, and his supporters. Exhibit B, pp. 100-101. He offered no apology or explanation for his misconduct, and has failed to acknowledge any wrongdoing as it either related to an ethical violation or criminal misconduct, in the seventeen years that have passed since the misconduct began, despite the myriad of opportunities presented, including his initial suspension hearing before Judge Dewey in 2003, his final suspension hearing before Judge Arnold in 2010, his 2011 testimony before the standing committee, and the September 11, 2012 hearing before this court.

The record before the committee supports a finding that Ganim accepted a final conviction following a fair trial and the appeal process, and that he was well-represented. The evidence before the committee cannot fairly support any finding that he admitted the underlying criminal conduct or was remorseful for same. There simply was no evidence in the record to explain why he engaged in the criminal behavior, or to enlighten the committee as to why he now knows to make the right choice. Ganim's testimony before the standing committee does not remotely suggest that he is remorseful and acknowledges the grave mistakes he made such that he can begin upon the path of redemption and rehabilitation. By referring, in his testimony, to challenges that "everybody" has in their lives and the obligations of "the whole Connecticut bar" and by failing to identify and acknowledge the specific criminal misconduct at issue, it is clear from the record that Ganim has not recognized and acknowledged the very conduct that sets him apart from other law-abiding citizens.

Allowing an applicant to be readmitted to the practice of law following a conviction on sixteen counts of racketeering, conspiracy, extortion, mail fraud, bribery and filing false income tax

returns without any apology, expression of remorse, or explanation, and with only a vague acceptance of an unspecified event, simply would set the bar for readmission too low in the state; and we are unwilling to do that. Additionally, and as discussed below, Ganim expressly *denied* any criminal conduct when he testified, under oath, at his trial in 2003, and the record is devoid of any evidence to suggest that he has deviated from that denial.[16] As such, the committee clearly erred to the extent it found that Ganim was remorseful or acknowledged that he engaged in the criminal misconduct, which are necessary components of rehabilitation and a finding of present fitness.

GANIM'S FALSE TESTIMONY IN 2003

The committee found that "[a]ll the evidence presented to the Committee, *other than Exhibit C. the Federal Prison Consultant website*, point[s] to the fact that Mr. Ganim is presently fit to practice law." Committee Report, p. 11, paragraph 36 (emphasis added). Significantly, the committee found that *all* the evidence before it, including the testimony of the thirteen witnesses, pointed to present fitness, with the stated exception of the website.

Ganim's suspension was based upon the sixteen count conviction in federal court and not on any testimony he gave during that trial or any conduct since the trial. At the July 1, 2003 sentencing hearing, Judge Arterton, referring to Ganim's 2003 testimony at trial, stated as follows:

> I find by clear and convincing evidence that Mr. Ganim's trial testimony was so fundamentally and materially in dispute to that which was given by others whose testimony was corroborated, that I

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16 Additionally, Ganim acknowledged before the committee that he had filed a motion alleging that the prosecution in his criminal case had withheld exculpatory information that could have changed the outcome of his trial. Exhibit 7, October 24, 2011 Tr., at 59-60. In his testimony Ganim referenced an interview he gave to an NBC reporter on October 8, 2010 (without any follow up by the Committee) and given the inclusion of an article in the record regarding the interview; Exhibit C; the apparent failure of the committee to access the video on the NBC website calls into question the adequacy of their investigation.

> find that the subject of his denials of any fee splitting deals; his explanation that he, not others, paid for many of the items in evidence; his testimony that his attorney brother's forbearance on a fee on Pinto's personal injury claim constituted reimbursement to Pinto for the home building and furnishing expenses, his denial of having claimed to Mr. Kochiss that he had a legal opinion that authorized him to by-pass the city council to obtain the life insurance *are examples of material matters on which he gave false testimony with willful intent, it was not by confusion, mistake or faulty memory. On the second day of his testimony alone he said "absolutely not" at least 22 times. And, therefore, the Court constitutes that there wasn't any mistake, any confusion, any misunderstanding that his testimony was a flat out and false denial on material matters intended to influence the jury with respect to whether or not he had a guilty role, a criminal role in the schemes that were being laid out. It sounded like, if I've ever heard one, a spin to avoid conviction*, and it failed when the jury disbelieved him, credited those with opposite testimony, and convicted him on 16 counts. Accordingly, the defendant will receive a two-level increase for obstruction of justice. Exhibit 7, pp. 62-63 (emphasis added).

The uncontroverted evidence in the record before the standing committee was that the trial judge, following a ten week trial, having had an opportunity to observe Ganim and assess his testimony at trial, found that he intentionally testified falsely. Ganim was not asked by counsel or the committee about Judge Arterton's comments, nor did he offer any explanation at all for his trial testimony.

In light of the uncontroverted evidence of his 2003 false testimony at trial, the committee clearly erred in finding that all of the evidence, except for the website which it singled out, pointed to present fitness. It was within the discretion of the committee to weigh the evidence before it, and accept or reject the evidence as it saw fit, and the court is entitled to presume that the standing committee considered all of the evidence in reaching its recommendation. *Commission on Human Rights & Opportunities v. Hartford*, 138 Conn. App.141 (2012)__A.3d__; *Bancroft v. Commissioner*

of Motor Vehicles, 48 Conn. App. 391, 404, 70 A2d. 807,cert. denied 245 Conn. 917,717 A.2d. 234 (1998). Had the committee rejected the evidence of false testimony, having found it not credible, the finding should have been instead that all of the *credible* evidence, except for the website, pointed to present fitness. On the other hand, had the committee found the evidence of Judge Arterton's statements regarding Ganim's false testimony as credible, but that he had rehabilitated himself in the passage of time since the 1995 to 1999 misconduct and the 2003 false testimony, the committee should have made the appropriate findings in its report. Thus, the committee's finding that all of the evidence except for the website pointed to present fitness was clearly erroneous.

GANIM'S FAILURE TO REPORT THE CONVICTION TO DISCIPLINARY COUNSEL IN 2003 IN CONTRAVENTION OF PRACTICE BOOK §2-41

Ganim was required, pursuant to then Practice Book §2-41(a), to send written notice of his conviction within ten days of the entry of the judgment of conviction.[17] This issue was raised by the court at the September 11, 2012 hearing. The July 22, 2003 presentment indicates that he did not do so. July 22, 2003 petition, paragraph 4. Failure to send the written notice as required constitutes misconduct pursuant to Practice Book § 2-41(g). Although part of the official court file, the presentment does not appear to be part of the record before the standing committee. The committee erred by failing to investigate Ganim's failure to abide by the disciplinary rule requiring reporting of a conviction which misconduct, if true, would suggests continued indifference to legal obligations.

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17 Prior to July 1, 2003, Practice Book (Rev. to 2002)§ 2-41(a) required that written notice be sent by certified mail, return receipt requested, to statewide bar counsel. The practice book was subsequently amended, effective July 1, 2003, to require that the notice be sent to disciplinary counsel; that remains the requirement today.

GANIM'S USE OF THE PRISON SUBSTANCE ABUSE PROGRAM

The uncontroverted evidence before the committee established that six years into his incarceration, Ganim took part in a substance abuse program intended for inmates with substance abuse problems which resulted in a sentence reduction for Ganim. As indicated in her March 6, 2012 ruling denying Ganim's petition for early termination of supervised release, the court, *Arterton, J.*, called his participation in the program a "puzzlement," "since he made no claim of substance abuse problem(s) [at] sentencing". April 12, 2012 Stipulation. Ganim explained his use of the program at the hearing before the standing committee, and the committee, having found that the testimony of all thirteen witnesses, including Ganim, to be consistent and pointing to a finding of fitness, acted within their discretion to accept his testimony in this regard. Committee Report, p. 11, paragraph 35. It is the function of the standing committee and not this court, to determine what testimony to believe and how much weight to assign to it. *Doe v. Connecticut Bar Examining Committee*, supra, 263 Conn. 58. This court will not substitute its views on the issue for those of the committee other than to join in Judge Arterton's "puzzlement" regarding Ganim's use of the program.

2011 FEDERAL PRISON CONSULTING WEBSITE

As discussed above, the standing committee found that all of the evidence in the record pointed to present fitness, with the exception of the Federal Prison Consultant website. Committee Report, p. 11, paragraph 36. The committee found that the website did not "point to the fact that Mr. Ganim is presently fit to practice law," without further elucidation. Id. The committee report states as follows:

"22. There was one line of questioning by Attorney King of the Statewide Disciplinary Counsel that did cause concern for the Committee. Specifically Attorney King questioned Mr. Ganim about a website for a company he owned called Federal Prison Consultant. Attorney King entered into evidence as Exhibit C a print version of the website as of October 21, 2011. Language from Exhibit C includes, "what happened to me should never happen to you or anyone". The website offers help from someone who has "survived the onslaught". "In October of 2001, I was targeted and indicted by the Federal Government on various white collar crimes." The website talks about how Mr. Ganim "became entangled in a Federal prosecution." The print version submitted into evidence was difficult to read but it talked about "wrongly, we became what is literally . . . as the 'target' of a Federal investigation." Mr. Ganim, subsequent to being questioned by Attorney King, removed most if not all of the above referenced language from the website . . .

25. Mr. Ganim explained The Federal Prison Consultant website by saying, "And I don't know if I said it clearly before is in my case I mean I had a fair trial, I had good lawyers, I had a fair judge and I live and stand by the result, I accept the verdict, I was found guilty. I accept that, I acknowledge that. I took an appeal, I lost. I took on in whatever way I thought I could and should took responsibility and went and did my time and come out and understand there's still continuing consequences." (T at 80). Further, he testified that it was a marketing person who put the website together and that he was careful to have the website reviewed by the Statewide Grievance Counsel. (T at 81).

Further, he indicated that he would revisit the language of the website and in fact did remove the language that was discussed. (*See Exhibit F*).

Ganim's explanation at the hearing before the committee was that where the website stated, "what happened to me should never happen to you or anyone else", it was referring to his "very scary and challenging experience" in the federal system. Committee Record, Exhibit 7, October 24, 2011, transcript, p. 56. When asked to explain the website statement that "wrongly we became what is literally known as the target of a federal investigation," and asked whether he felt he was wrongly targeted, Ganim testified that "we" referred to his family and that it referred to a search at his family

home. Id., pp. 57-58. It appears that the committee accepted Ganim's explanations for the website's statements[18], but found that the website itself did not point to a finding of present fitness.

THE PASSAGE OF TIME FOLLOWING THE MISCONDUCT AND REHABILITATION

"The law requires a reformation of character as demonstrated by an applicant's more recent life and conduct. The more egregious the misconduct resulting in disbarment, the greater the proof of moral character and trustworthiness required for reinstatement. Declarations of good moral character do not necessarily refute the evidence of bad moral character reasonably inferable from the prior egregious misconduct." *Statewide Grievance Committee v. Rapoport*, supra, 119 Conn. App. 282. "General testimonials, in this milieu, do not reach the requisite level of refuting reasonable inferences arising from the misconduct . . ." *In re Application of Avcollie*, supra, 43 Conn. Sup. 19.[19]

"Our courts have . . . acknowledged the critical role of the passage of time in evaluating rehabilitation where an attorney seeks reinstatement following the commission of serious felonies." *Statewide Grievance Committee v. Kalkstein*, Superior Court, judicial district of Hartford, Docket No. CV 02 0817230 (March 10, 2009, *Graham, J., Gold, J., Elgo, J.*). "A redemptive and rehabilitative life requires the passage of time for documentation. The more serious the misconduct, the more time required to meet the burden of moral trustworthiness." (Internal quotation marks

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As previously stated, the Committee found that the testimony of each of the thirteen witnesses, which would include Ganim, was consistent and "all" pointed to a finding of present fitness. Committee Report, p. 11, paragraph 35.

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The record before the committee contained numerous letters attesting to Ganim's good character. Many of the letters indicated that they had known Ganim for decades, which would include the period of his criminal activity, stating that they *always* knew Ganim to be honest and/or trustworthy. The fact that Ganim, a former politician, could garner such support from family and friends, while not surprising, does not automatically lend itself to a finding of good moral character. It was, however up to the standing committee to determine what weight to accord the character letters and testimony, and then weigh that evidence in conjunction with the other evidence in the record to determine whether, in light of the nature of the misconduct and any rehabilitation since, Ganim met his burden of proving that he is presently of good moral character and fit to practice law.

omitted.) *Statewide Grievance Committee v. Rapoport*, supra, 119 Conn. App. 275. This obligation of moral trustworthiness runs not only from the attorney to his client, but to the entire legal system including the public and the courts. Indeed, "we have an obligation to the public to protect it against the possibility of any future misconduct." *Statewide Grievance Committee v. Johnson*, Superior Court, judicial district of New Haven, Docket No. CV 05 4012328 (March 3, 2011, *Silbert, J., Fischer, J., Robinson, J.*), citing *In the Matter of Presnick*, 19 Conn. App. 340, 345, 563 A.2d 299, cert. denied, 213 Conn. 801, 567 A.2d 813 (1989).

A proper assessment of Ganim's present fitness requires a careful assessment of the misconduct at issue, and an unbiased review of his life since, in order to determine if sufficient time has passed for rehabilitation and redemption. In short, the inquiry is whether sufficient time has passed from the misconduct such that Ganim now possesses the honor, honesty, integrity, and trustworthiness that we rightfully demand from practicing members of our bar. Here, evaluating Ganim's character in the passage of time following his criminal misconduct of 1995 to 1999, the standing committee found that the 2011 website did not point to a finding of present fitness. Additionally, and as discussed above, Ganim, subsequent to his criminal misconduct, testified falsely at his trial in 2003. The egregious criminal misconduct spanning five years from 1995 to 1999 and which involved deception, dishonesty, and breach of trust, the 2003 false testimony under oath, the 2011 website which did not point to fitness - - all of these in conjunction with his failure to acknowledge, explain, or apologize for the criminal acts - - cannot reasonably support a finding of good moral character and present fitness.[20]

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The court also believes that any argument by Ganim that sufficient time has passed since his misconduct is somewhat undermined by the circumstances under which that time has passed. Most of that time has passed while Ganim was incarcerated and, more recently, while he has been under supervised release. It is hard to credit the passage of time as an indication of rehabilitation when it occurs under the watchful eyes of prison guards and a probation officer. A more appropriate barometer will involve an assessment of Ganim's conduct in the years following his discharge from his sentence.

III

CONCLUSION

Upon a thorough review of the record, we conclude that the committee acted unreasonably and in an abuse of its discretion in finding that the applicant possessed the necessary traits of good moral character and fitness to practice law that the profession rightfully demands. The evidence contained in the record was clearly inadequate to rebut the reasonable inferences to be drawn from the extraordinarily serious misconduct spanning five years, occurring while Ganim was in a position of public trust.

The egregious misconduct at issue was not an isolated error of judgment or a youthful indiscretion but a deliberate, repeated pattern of dishonesty and corruption. The crimes Ganim was convicted of directly implicate the core components of honesty, trustworthiness, and fair-dealing, which are fundamental to the legal profession. We recognize that Ganim must not only be judged for his misconduct, but he must also be judged for his good conduct, and the record does reflect his many good qualities. However, the underlying crimes spanning from 1995-1999, the uncontroverted evidence that he intentionally gave false testimony in 2003, the clear evidence in the record that he denied engaging in the criminal conduct and has never expressed remorse despite many opportunities to do so, the fact that he remains under the supervision of federal authorities and while on federal supervised release, established the federal prison consulting website that the committee specifically found did not point to present fitness - - compels our conclusion that the record cannot substantiate a finding of good moral character and fitness to practice law.[21]

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[21] It is noteworthy that Judge Arterton denied Ganim's motion for an early termination of his supervised release. It would be anomalous, to say the least, that Ganim should continue to be supervised in the conduct of his own affairs but entrusted with the affairs of others. This anomaly was apparently not lost on Ganim who seeks a finding at this time that

While we are left with the definite and firm belief that the committee clearly erred in recommending readmission, we emphasize that the committee acted in good faith without any bias or prejudice for or against the applicant, and we do not mean to substitute our moral values for those of the committee[22]. However, for the reasons set forth above, and for the reason that the recommendation of the committee fails to advance the valuable goal of promoting public confidence in the bar and our system of justice, the application is denied.

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he is currently fit to practice while delaying the effect of that finding for another year when he is no longer under supervised release. If he truly is presently fit to be readmitted to practice, then his readmission should be effective forthwith. As noted above, however, the record does not substantiate a current finding of good moral character and fitness to practice law.

22

At the initial committee hearing on May 23, 2011, several committee members disclosed potential conflicts on the record. Committee Record, Exhibit 7, March 23, 2011 transcript, pp. 2-4. Of the five committee members, one had been represented on a personal matter by Ganim's counsel, another committee member's firm did work for the City of Bridgeport when Ganim was mayor, and another committee member had represented Raymond Ganim, the applicant's uncle and one of the eleven character witnesses. Although we have no doubt that the committee did yeoman's work in the discharge of its responsibilities and that these relationships did not influence the committee's decision in any way, we invite our colleagues on the superior court to consider whether rule changes might be in order to make these disciplinary proceedings more in line with grievance proceedings, which prohibit an attorney from sitting on a grievance panel in the same judicial district where he maintains an office. Connecticut Practice Book §2-35(a). It is, to say the least, an unenviable position for an attorney to have to decide whether a former colleague should be permitted to return to their livelihood, and requiring the decision to be made by attorneys from another judicial district might serve to make what is already a very difficult, challenging task that much less burdensome.

BELLIS, J.

DEWEY, J.

SOLOMON, J.